

103<sup>D</sup> CONGRESS  
2<sup>D</sup> SESSION

# S. 2428

To provide for the management of the airspace over the units of the National Park System, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

AUGUST 25 (legislative day, AUGUST 18), 1994

Mr. AKAKA introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

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## A BILL

To provide for the management of the airspace over the units of the National Park System, and for other purposes.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

3       **SECTION 1. SHORT TITLE.**

4       This Act may be cited as the “National Parks Air-  
5       space Management Act of 1994”.

6       **SEC. 2. FINDINGS.**

7       Congress makes the following findings:

8               (1) Air tour flights over units of the National  
9       Park System may have adverse effects on such  
10      units.

1           (2) Congressional concern over the effects of  
2       low-level flights on the units of the National Park  
3       System led to the enactment of the Act entitled “An  
4       Act to require the Secretary of the Interior to con-  
5       duct a study to determine the appropriate minimum  
6       altitude for aircraft flying over national park system  
7       units”, approved August 18, 1987 (Public Law 100-  
8       91; 101 Stat. 674; 16 U.S.C. 1a-1 note). The Act  
9       required the Director to identify problems associated  
10      with flights by aircraft in the airspace over the units  
11      of the National Park System.

12          (3) The number of flights by aircraft over units  
13      of the National Park System has increased rapidly  
14      since the enactment of the Act, and the National  
15      Park Service continues to struggle to develop a pol-  
16      icy which would achieve an acceptable balance be-  
17      tween flights over such units by commercial air tour  
18      operators and the protection of the resources in such  
19      units and the experiences of visitors to such units.

20          (4) Visitors to certain units of the National  
21      Park System may reasonably expect quiet during  
22      their visits to such units, particularly visitors to  
23      units established with the specific goal of providing  
24      visitors to the units with an opportunity for solitude.

1           (5) Natural quiet is an inherent resource of cer-  
2           tain units of the National Park System. It is in the  
3           public interest that natural quiet at such units be  
4           conserved in the same manner as other resources  
5           under the care and jurisdiction of the National Park  
6           Service.

7           (6) The public has registered a significant num-  
8           ber of complaints about commercial air tour flights  
9           over certain areas under the jurisdiction of the Na-  
10          tional Park Service.

11          (7) Such flights may degrade the experiences of  
12          visitors to the affected areas and may have adverse  
13          effects on wildlife and cultural resources in such  
14          areas.

15          (8) The Federal Aviation Administration con-  
16          tinues to have difficulty controlling adequately com-  
17          mercial air tour flights by aircraft over units of the  
18          National Park System that are adversely affected by  
19          such flights.

20          (9) There are significant and continuing con-  
21          cerns about the safety of commercial air tour flights  
22          over some units of the National Park System, in-  
23          cluding concerns for the safety of occupants of the  
24          flights, of visitors to such units, of Federal Govern-

1       ment employees at such units, and of the general  
2       public.

3   **SEC. 3. MINIMIZATION OF EFFECTS OF COMMERCIAL AIR**  
4                   **TOUR FLIGHTS OVER UNITS OF THE NA-**  
5                   **TIONAL PARK SYSTEM.**

6       (a) PROHIBITION ON FLIGHTS BELOW CERTAIN AL-  
7   TITUDES.—(1) Notwithstanding any other provision of law  
8   and subject to paragraph (2), a commercial air tour opera-  
9   tor may not conduct the portion of a commercial air tour  
10   flight that takes place over a unit of the National Park  
11   System at an altitude that is less than 3,000 feet above  
12   ground level.

13       (2) The prohibition in paragraph (1) may not be con-  
14   strued to prohibit an agreement among a commercial air  
15   tour operator, the Administrator, and the Director which  
16   establishes a minimum flight altitude for commercial air  
17   tour flights of the operator over a particular unit of the  
18   National Park System that differs from the minimum  
19   flight altitude set forth in that paragraph.

20       (b) ADDITIONAL ACTIONS TO MINIMIZE EFFECTS.—  
21   Notwithstanding any other provision of law, the Adminis-  
22   trator and the Director shall jointly take such actions as  
23   the Administrator and the Director determine appropriate  
24   in order—

1           (1) to determine the most practical and effective means of minimizing the effects of commercial  
2           air tour flights over units of the National Park System;  
3           tem;

4           (2) to implement such means; and

5           (3) to conduct periodic training of the employees of the Federal Aviation Administration and the  
6           National Park Service on matters relating to the implementation of such means.  
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10 **SEC. 4. DEVELOPMENT OF SINGLE STANDARD FOR CERTIFYING COMMERCIAL AIR TOUR OPERATORS.**  
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13           (a) COMMENCEMENT OF RULEMAKING.—Not later  
14 than 90 days after the date of the enactment of this Act,  
15 the Administrator shall initiate formal rulemaking procedures for the purpose of prescribing a new subpart of part  
16 135 of title 14, Code of Federal Regulations (relating to  
17 air taxi operators and commercial operators), which would  
18 specifically cover all commercial air tour operators (as that  
19 term will be defined by the Federal Aviation Administration under the subpart) that conduct commercial air tour  
20 flights over units of the National Park System.  
21  
22

23           (b) COVERED MATTERS.—The subpart prescribed  
24 under subsection (a) shall contain regulations that address  
25 safety and environmental issues with respect to commer-

1 cial air tour flights over units of the National Park Sys-  
 2 tem. In prescribing the subpart, the Administrator shall  
 3 attempt to minimize the financial and administrative bur-  
 4 dens imposed on commercial air tour operators by such  
 5 regulations.

6 (c) COMPLETION.—The Administrator shall—

7 (1) complete prescription of the regulations re-  
 8 ferred to in subsection (a) not later than the end of  
 9 the 1-year period beginning on the date of the enact-  
 10 ment of this Act; or

11 (2) if the Administrator does not complete the  
 12 prescription by the end of that period, submit to  
 13 Congress a report at the end of that period which  
 14 report shall—

15 (A) provide an explanation of the failure of  
 16 the Administrator to complete the prescription  
 17 within that period; and

18 (B) describe the status of the regulations  
 19 to be prescribed.

20 **SEC. 5. DEVELOPMENT OF OPERATIONAL RULE FOR COM-**  
 21 **MERCIAL AIR TOUR OPERATIONS OVER**  
 22 **UNITS OF THE NATIONAL PARK SYSTEM.**

23 (a) REQUIREMENT.—(1) Except as provided in para-  
 24 graph (2), the Administrator shall initiate formal rule-  
 25 making procedures for the purpose of prescribing a single

1 operational rule which would govern the conduct of fixed-  
2 wing and rotorcraft flights by commercial air tour opera-  
3 tors over the units of the National Park System. The Ad-  
4 ministrator shall initiate such procedures not later than  
5 90 days after the date of the enactment of this Act.

6 (2) The Administrator may prescribe separate oper-  
7 ational rules governing the conduct of flights by fixed-wing  
8 aircraft and by rotorcraft if the Administrator determines  
9 under subsection (b)(1) that separate rules are warranted.

10 (b) CONSIDERATIONS.—In developing an operational  
11 rule under subsection (a), the Administrator shall—

12 (1) consider whether differences in the charac-  
13 teristics and effects on the environment of fixed-  
14 wing aircraft and rotorcraft warrant the develop-  
15 ment of separate operational rules with respect to  
16 such craft;

17 (2) provide a mechanism for the Director to  
18 recommend individual units or geographically proxi-  
19 mate groups of units to be designated as aerial  
20 sightseeing areas, as defined by Federal Aviation  
21 Administration Handbook 92.01, dated January  
22 1992; and

23 (3) provide a mechanism for the Director to ob-  
24 tain immediate assistance from the Administrator in  
25 resolving issues relating to the use of airspace above

1 units which issues are of a critical, time-sensitive na-  
2 ture.

3 (c) COMPLETION.—The Administrator shall—

4 (1) complete prescription of the regulations re-  
5 ferred to in subsection (a) not later than the end of  
6 the 1-year period beginning on the date of the enact-  
7 ment of this Act; or

8 (2) if the Administrator does not complete the  
9 prescription by the end of that period, submit to  
10 Congress a report at the end of that period which  
11 report shall—

12 (A) provide an explanation for the failure  
13 of the Administrator to complete the prescrip-  
14 tion within that period; and

15 (B) describe the status of the regulations  
16 to be prescribed.

17 (d) EFFECT ON AGREEMENTS.—Nothing in this sec-  
18 tion is intended to preclude the Administrator, the Direc-  
19 tor, and a commercial air tour operator from entering into  
20 an agreement under section 7 (including an agreement  
21 under subsection (c)(3) or (d)(1) of that section) on the  
22 conduct of air tour flights by the air tour operator over  
23 a particular unit of the National Park System under dif-  
24 ferent terms and conditions than those imposed by the  
25 operational rule or rules prescribed under this section.



1 **SEC. 6. FLIGHT-FREE PARKS.**

2 (a) DESIGNATION OF UNITS.—Not later than 1 year  
3 after the date of the enactment of this Act, the Director,  
4 in consultation with the Administrator, shall—

5 (1) prescribe criteria to identify units of the  
6 National Park System where air tour flights by com-  
7 mercial air tour aircraft are incompatible with or in-  
8 jurious to the purposes and values for which such  
9 units were established;

10 (2) identify any units of the National Park Sys-  
11 tem which meet such criteria; and

12 (3) designate such units as units of the Na-  
13 tional Park System covered by this section.

14 (b) REQUIREMENTS RELATING TO CRITERIA.—In  
15 prescribing criteria under subsection (a), the Director—

16 (1) shall ensure sufficient opportunity for public  
17 comment;

18 (2) shall give due consideration to the com-  
19 ments and recommendations of the National Park  
20 Overflight Advisory Council established under sec-  
21 tion 10 and of the Federal Interagency Airspace/  
22 Natural Resource Coordination Group, or any suc-  
23 cessor organization to that entity; and

24 (3) may utilize the authority to engage in nego-  
25 tiated rulemaking under subchapter III of chapter 5  
26 of title 5, United States Code.

1 (c) EFFECT OF DESIGNATION.—

2 (1) PROHIBITION.—Except as provided in para-  
3 graphs (2) and (3), commercial air tour flights may  
4 not be conducted in the airspace over any unit of the  
5 National Park System designated under subsection  
6 (a)(3).

7 (2) OPERATORS CONDUCTING FLIGHTS BEFORE  
8 1994.—

9 (A) IN GENERAL.—Subject to subpara-  
10 graph (B) and paragraph (4), a commercial air  
11 tour operator that conducted commercial air  
12 tour flights in the airspace over a unit des-  
13 ignated under subsection (a)(3) as of December  
14 31, 1993, may continue to conduct flights in  
15 that airspace.

16 (B) LIMITATION.—The number of com-  
17 mercial air tour flights over a unit that a com-  
18 mercial air tour operator may conduct under  
19 this paragraph in any year after 1994 may not  
20 exceed the number of such flights that the oper-  
21 ator conducted over the unit during 1993.

22 (3) OPERATORS COMMENCING FLIGHTS AFTER  
23 1993.—

24 (A) IN GENERAL.—Subject to subpara-  
25 graph (B) and paragraph (4), a commercial air

1 tour operator that commences, during the pe-  
2 riod beginning on January 1, 1994, and ending  
3 on the date of the enactment of this Act, the  
4 conduct of commercial air tour flights in the  
5 airspace over a unit designated under sub-  
6 section (a)(3) may continue to conduct flights  
7 in that airspace.

8 (B) LIMITATION.—The number of com-  
9 mercial air tour flights over a unit that a com-  
10 mercial air tour operator may conduct under  
11 this paragraph in any month after December  
12 1994 may not exceed the average number of  
13 flights per month that the operator conducted  
14 over the unit during the period referred to in  
15 subparagraph (A).

16 (4) EFFECT OF SALE OR DISCONTINUATION OF  
17 OPERATIONS.—

18 (A) PROHIBITION ON SALE.—The author-  
19 ity of a commercial air tour operator to conduct  
20 commercial air tour flights under paragraph (2)  
21 or (3) may not be sold, conveyed, or otherwise  
22 transferred.

23 (B) DISCONTINUATION.—Upon the dis-  
24 continuation by a commercial air tour operator  
25 of commercial air tour flights over a unit of the

1 National Park System under paragraph (2) or  
2 (3), the authority of the air tour operator to  
3 conduct such flights over that unit shall termi-  
4 nate.

5 **SEC. 7. FLIGHTS OVER OTHER UNITS OF THE NATIONAL**  
6 **PARK SYSTEM.**

7 (a) NATIONAL PARK AIRSPACE MANAGEMENT  
8 PLANS.—

9 (1) IN GENERAL.—The Director and the Ad-  
10 ministrator shall establish in accordance with this  
11 subsection a plan for the management of the air-  
12 space above each unit of the National Park System  
13 not designated under section 6 that—

14 (A) is affected by commercial air tour  
15 flights to such an extent that the Director con-  
16 siders the unit to be a unit requiring an air-  
17 space management plan; or

18 (B) is a unit over which—

19 (i) no commercial air tour flights oc-  
20 curred on or before the date of the enact-  
21 ment of this Act; and

22 (ii) a commercial air tour operator  
23 proposes to conduct commercial air tour  
24 flights after that date.

1           (2) PLAN PURPOSE.—The purpose of a plan  
2           under this subsection is to minimize the adverse ef-  
3           fects of commercial air tour flights on the resources  
4           of a unit of the National Park System.

5           (b) DEVELOPMENT OF AIRSPACE MANAGEMENT  
6 PLANS.—

7           (1) IN GENERAL.—

8           (A) AFFECTED UNITS.—The Director and  
9           the Administrator shall jointly develop a plan  
10          for the management of the airspace above a  
11          unit of the National Park System referred to in  
12          subsection (a)(1)(A) not later than 1 year after  
13          the date of the determination by the Director  
14          under that subsection that the unit requires  
15          such a plan.

16          (B) UNITS SUBJECT TO PROPOSED OPER-  
17          ATIONS.—In the case of a unit referred to in  
18          subsection (a)(1)(B), the Director and the Ad-  
19          ministrator shall jointly develop a plan for the  
20          management of the airspace over the unit not  
21          later than 180 days after the date on which a  
22          commercial air tour operator first submits to  
23          the Director a proposal referred to in that sub-  
24          section. The proposal shall include any informa-  
25          tion that the Director and the Administrator

1 consider necessary in order to evaluate fully the  
2 proposal.

3 (2) TREATMENT OF RELEVANT EXPERTISE.—In  
4 developing plans under paragraph (1), the Adminis-  
5 trator shall defer to the Director in matters relating  
6 to the identification and protection of park re-  
7 sources, and the Director shall defer to the Adminis-  
8 trator in matters relating to the safe and efficient  
9 management of airspace.

10 (3) NEGOTIATED RULEMAKING.—In developing  
11 a plan for a unit, the Director and the Adminis-  
12 trator shall jointly—

13 (A) determine whether the utilization of  
14 negotiated rulemaking procedures under sub-  
15 chapter III of chapter 5 of title 5, United  
16 States Code, in the development of the plan is  
17 in the public interest; and

18 (B) if the Director and the Administrator  
19 determine that such utilization is in the public  
20 interest, develop the plan utilizing procedures  
21 for such rulemaking under that subchapter.

22 (4) COMMENT ON PLANS.—In developing a plan  
23 for a unit, the Director and the Administrator  
24 shall—

1 (A) ensure sufficient opportunity for public  
2 comment; and

3 (B) give due consideration to the com-  
4 ments and recommendations of the National  
5 Park Overflight Advisory Council established  
6 under section 10 and the Federal Interagency  
7 Airspace/Natural Resource Coordination Group,  
8 or any successor organization to that entity.

9 (5) RESOLUTION OF PLAN INADEQUACIES.—If  
10 the Director and the Administrator disagree with re-  
11 spect to any portion of a proposed plan under this  
12 subsection, the Director and the Administrator shall  
13 refer the proposed plan to the Secretary of the Inte-  
14 rior and the Secretary of Transportation who shall  
15 jointly resolve the disagreement.

16 (6) ASSESSMENT OF EFFECTS OF  
17 OVERFLIGHTS.—The Director and the Administrator  
18 may jointly conduct any studies to ascertain the ef-  
19 fects of low-level flights of commercial air tour air-  
20 craft over units of the National Park System that  
21 the Director and the Administrator consider nec-  
22 essary for the development of plans under this sub-  
23 section.

24 (7) PERIODIC REVIEW.—The Director and the  
25 Administrator shall periodically review each plan de-

1        developed under this subsection. The purpose of the re-  
 2        view is to ensure that the plan continues to meet the  
 3        purpose of the plan under this subsection. The Di-  
 4        rector and the Administrator may revise a plan if  
 5        they determine based on such review that such revi-  
 6        sion is advisable.

7        (c) FLIGHTS OVER UNITS REQUIRING MANAGEMENT  
 8        PLANS.—

9            (1) FLIGHTS OVER UNITS COVERED BY  
 10        PLANS.—A commercial air tour operator may not  
 11        conduct commercial air tour flights in the airspace  
 12        over a unit of the National Park System covered by  
 13        an airspace management plan developed under sub-  
 14        section (b) unless the commercial air tour operator  
 15        enters into an agreement with respect to the conduct  
 16        of such flights under paragraph (3).

17            (2) FLIGHTS PENDING DEVELOPMENT OF  
 18        PLANS.—

19            (A) FLIGHTS BY EXISTING OPERATORS.—

20            (i) IN GENERAL.—A commercial air  
 21        tour operator described in clause (ii) may  
 22        conduct commercial air tour operations in  
 23        the airspace over a unit described in that  
 24        clause during the period of the develop-  
 25        ment of an airspace management plan for



1 the unit under this section. The number of  
2 such flights during any day in that period  
3 may not exceed the average daily number  
4 of commercial air tour flights conducted by  
5 the air tour operator during the 12-month  
6 period ending on the date of the com-  
7 mencement of the development of the plan  
8 under this section.

9 (ii) COVERED OPERATORS.—Clause (i)  
10 applies to any commercial air tour operator  
11 that conducts commercial air tour flights  
12 over a unit of the National Park System  
13 for which the Director determines under  
14 subsection (a) that an airspace manage-  
15 ment plan is required if the commercial air  
16 tour operator conducts such flights over  
17 the unit as of the date of that determina-  
18 tion.

19 (B) FLIGHTS BY POTENTIAL OPERA-  
20 TORS.—Except as provided in subparagraph  
21 (A), a commercial air tour operator may not  
22 conduct commercial air tour flights over a unit  
23 of the National Park System referred to in  
24 clause (ii) of that subparagraph during the pe-

1           riod referred to in clause (i) of that subpara-  
2           graph.

3           (3) AGREEMENT.—An agreement referred to in  
4           paragraph (1) is an agreement among a commercial  
5           air tour operator, the Director, and the Adminis-  
6           trator which provides for the application of relevant  
7           provisions of the airspace management plan for the  
8           unit concerned to the commercial air tour operator  
9           entering into the agreement.

10          (d) FLIGHT OVER UNITS NOT REQUIRING MANAGE-  
11          MENT PLANS.—

12           (1) REQUIREMENT FOR AGREEMENT.—A com-  
13           mercial air tour operator may not conduct commer-  
14           cial air tour flights over a unit of the National Park  
15           System for which no airspace management plan is  
16           required under this section unless the commercial air  
17           tour operator enters into an agreement with the Di-  
18           rector and the Administrator relating to the conduct  
19           of such flights. The terms and conditions of the  
20           agreement shall, to the maximum extent practicable,  
21           provide for the conduct of air tour flights by the air  
22           tour operator in a manner that minimizes the ad-  
23           verse effect of such air tour flights on the environ-  
24           ment of the unit.

1           (2) FLIGHTS PENDING AGREEMENT.—A com-  
2       mercial air tour operator that conducts commercial  
3       air tour flights over a unit referred to in paragraph  
4       (1) on the date of the enactment of this Act may  
5       continue to conduct such flights during negotiations  
6       for the agreement referred to in paragraph (1). The  
7       number of such flights during any day in that period  
8       may not exceed the average daily number of com-  
9       mercial air tour flights conducted by the air tour op-  
10      erator during the 12-month period ending on the  
11      date of the commencement of negotiations for the  
12      agreement.

13      (e) RESOLUTION OF DISPUTES IN ENTERING INTO  
14      AGREEMENTS.—

15           (1) RESOLUTION.—In the event of a dispute be-  
16      tween a commercial air tour operator and the Direc-  
17      tor and the Administrator during entry into an  
18      agreement under subsection (c) or (d), the Director,  
19      the Administrator, and the air tour operator shall  
20      attempt to resolve the dispute using the dispute res-  
21      olution proceedings authorized under subchapter IV  
22      of chapter 5 of title 5, United States Code.

23           (2) FAILURE OF RESOLUTION.—If the Director,  
24      the Administrator, and a commercial air tour opera-  
25      tor are unable to resolve a dispute referred to in

1 paragraph (1) using the dispute resolution proce-  
2 dures referred to in that paragraph, the Adminis-  
3 trator shall prescribe an operational rule for the unit  
4 of the National Park System concerned in accord-  
5 ance with subsection (f)(3).

6 (f) OVERSIGHT.—

7 (1) ASSESSMENT OF EFFECTIVENESS OF  
8 AGREEMENTS.—The Director shall periodically carry  
9 out such studies as are necessary to determine if  
10 agreements entered into under subsections (c) and  
11 (d) are adequate to minimize the adverse effects of  
12 commercial air tour flights on the resources of the  
13 units of the National Park System covered by such  
14 agreements.

15 (2) RESPONSE TO INADEQUACY.—If the Direc-  
16 tor determines under paragraph (1) that one or  
17 more agreements referred to in that paragraph are  
18 inadequate to minimize the effects referred to in  
19 that paragraph, the Director shall—

20 (A) notify the Administrator and the com-  
21 mercial air tour operator concerned of that de-  
22 termination; and

23 (B) attempt to resolve the inadequacy uti-  
24 lizing the dispute resolution procedures author-

1            ized under subchapter IV of chapter 5 of title  
2            5, United States Code.

3            (3) ADDITIONAL RESOLUTION AUTHORITY.—

4                    (A) OPERATIONAL RULE.—If the Director,  
5            the Administrator, and a commercial air tour  
6            operator are unable to resolve an inadequacy in  
7            an agreement utilizing the dispute resolution  
8            procedures referred to in paragraph (2)(B), the  
9            Administrator shall prescribe an operational  
10          rule for the unit concerned. The purpose of the  
11          rule shall be to minimize the adverse effects of  
12          commercial air tour flights on the resources of  
13          the unit concerned.

14                  (B) DISPUTES RELATING TO RULE.—If the  
15          Director determines that the implementation of  
16          an operational rule, and the enforcement there-  
17          of by the Administrator, is inadequate in whole  
18          or in part to minimize the adverse effects of  
19          commercial air tour flights on the resources of  
20          the unit concerned, the Director shall—

21                    (i) notify the Administrator and the  
22                  commercial air tour operator or operators  
23                  concerned of that determination; and

24                    (ii) attempt to resolve the inadequacy  
25                  utilizing the dispute resolution procedures

1 authorized under subchapter IV of chapter  
2 5 of title 5, United States Code.

3 (C) FINAL RESOLUTION.—If the Director,  
4 the Administrator, and the commercial air tour  
5 operator or operators concerned are unable to  
6 resolve an inadequacy in an operational rule  
7 under subparagraph (B), the Administrator  
8 shall develop a Special Federal Aviation Regula-  
9 tion (SFAR) covering the unit concerned.

10 **SEC. 8. FLIGHTS BY OTHER AIRCRAFT OVER UNITS OF THE**  
11 **NATIONAL PARK SYSTEM.**

12 (a) FLIGHT EMERGENCIES.—No provision of this Act  
13 shall apply to an aircraft experiencing an in-flight emer-  
14 gency.

15 (b) FLIGHTS BY MILITARY AIRCRAFT.—Notwith-  
16 standing any other provision of law, military aircraft may  
17 not conduct flights in the airspace over a unit of the Na-  
18 tional Park System below an altitude that is 3,000 above  
19 ground level, except as provided for in a Memorandum of  
20 Understanding between the Director and the Secretary of  
21 Defense.

22 (c) FLIGHTS FOR COMMERCIAL AERIAL PHOTOG-  
23 RAPHY.—

24 (1) IN GENERAL.—An aircraft or rotorcraft en-  
25 gaged in commercial aerial photography may not

1       conduct flights in the airspace over a unit of the Na-  
2       tional Park Service below an altitude that is 3,000  
3       feet above ground level unless the pilot of the air-  
4       craft or rotorcraft receives advance written permis-  
5       sion from the appropriate Flight Standards District  
6       Office of the Federal Aviation Administration and  
7       from the superintendent of the unit of the National  
8       Park System concerned.

9           (2) FEES.—The superintendents of the units of  
10       the National Park System may collect fees from the  
11       operators of aircraft and rotorcraft engaged in com-  
12       mercial aerial photography. The fees shall be set at  
13       such amount as the Director determines necessary to  
14       ensure that the United States will receive fair mar-  
15       ket value for the use of the area concerned and  
16       shall, at a minimum, cover all administrative and  
17       other costs of providing necessary services associated  
18       with commercial aerial photography at such units.

19   **SEC. 9. AIRCRAFT SAFETY.**

20       (a) AIRCRAFT MARKINGS.—

21           (1) REQUIREMENT.—Each operator of commer-  
22       cial air tour aircraft shall display on each air tour  
23       aircraft of the operator the identification marks de-  
24       scribed in paragraph (2).

1           (2) IDENTIFICATION MARKS.—The identifica-  
2           tion marks for the aircraft of a commercial air tour  
3           operator shall—

4                   (A) be unique to the operator;

5                   (B) be not less than 36 inches in length  
6                   (or a size consistent with the natural configura-  
7                   tion of the aircraft fuselage);

8                   (C) appear on both sides of the air tour  
9                   aircraft of the air tour operator and on the un-  
10                  derside of the aircraft; and

11                  (D) be applied to the air tour aircraft of  
12                  the air tour operator in a highly visible color  
13                  that contrasts sharply with the original base  
14                  color paint scheme of the aircraft.

15       (b) FLIGHT MONITORING SYSTEMS.—

16           (1) REQUIREMENT FOR STUDY.—Not later than  
17           1 year after the date of the enactment of this Act,  
18           the Administrator shall carry out a study of the fea-  
19           sibility and advisability of requiring that aircraft and  
20           rotorcraft operating in the airspace over units of the  
21           National Park System have onboard an automatic  
22           flight tracking system capable of monitoring the alti-  
23           tude and ground position of the aircraft and rotor-  
24           craft.



1           (2) INSTALLATION OF FLIGHT MONITORING  
2       SYSTEM.—If the Administrator determines under the  
3       study required under paragraph (1) that the use of  
4       automatic flight tracking system in aircraft and  
5       rotorcraft is feasible and advisable, then not later  
6       than 2 years after the date of the enactment of this  
7       Act, each commercial air tour operator that conducts  
8       air tour flights in the airspace above a unit of the  
9       National Park System shall have an automatic flight  
10      tracking system onboard each aircraft and rotorcraft  
11      of such air tour operator that conducts such air tour  
12      flights.

13           (3) MONITORING THROUGH SYSTEMS.—

14           (A) MONITORING.—The Director shall en-  
15      sure that appropriate personnel of the National  
16      Park Service monitor the altitude and position  
17      of aircraft and rotorcraft, if any, having a sys-  
18      tem required under paragraph (2) for purposes  
19      of determining that the aircraft and rotorcraft  
20      comply with all laws, regulations, and agree-  
21      ments on flights in the airspace over units of  
22      the National Park System.

23           (B) VIOLATIONS.—The Director shall en-  
24      sure that personnel referred to in subparagraph  
25      (A) report to the Federal Aviation Administra-

1           tion any apparent violations of the laws and  
2           regulations referred to in that subparagraph.

3           (c) AERONAUTICAL CHARTS.—The Administrator  
4 shall ensure that the boundaries of each unit of the Na-  
5 tional Park System and the provisions of the airspace  
6 management plan, operational rule, or Special Federal  
7 Aviation Regulation (SFAR), if any, with respect to each  
8 such unit are accurately reflected on aeronautical charts.

9           (d) PARK VISITOR EDUCATION.—The Director shall  
10 develop educational materials for public distribution on air  
11 tour flights over units of the National Park System by  
12 commercial air tour operators. Such materials shall in-  
13 clude the most common flight patterns and routes of such  
14 flights.

15          (e) DATA COLLECTION.—

16           (1) IN GENERAL.—The Administrator shall col-  
17 lect and publish each year statistical data on com-  
18 mercial air tour flights over the units of the Na-  
19 tional Park System.

20           (2) REQUIREMENT FOR INFORMATION.—The  
21 information collected under paragraph (1) shall in-  
22 clude the following:

23           (A) The units at which such flights oc-  
24 curred.

1 (B) The flight hours flown during such  
2 flights.

3 (C) The number of passengers carried dur-  
4 ing such flights.

5 (D) The number and type of aircraft  
6 safety violations that occurred during such  
7 flights.

8 (E) The number and type of accidents or  
9 other incidents involving air tour aircraft that  
10 occurred during such flights.

11 (F) The number and type of disciplinary  
12 actions, if any, taken against the pilots of such  
13 aircraft with respect to such flights.

14 **SEC. 10. NATIONAL PARK OVERFLIGHT ADVISORY**  
15 **COUNCIL.**

16 (a) ESTABLISHMENT.—There is hereby established a  
17 commission to be known as the National Park Overflight  
18 Advisory Council (in this section referred to as the “Coun-  
19 cil”).

20 (b) MEMBERSHIP.—

21 (1) VOTING MEMBERS.—The Council shall be  
22 composed of 20 voting members appointed jointly by  
23 the Director and the Administrator as follows:

1 (A) Five representatives of environmental  
2 or conservation organizations, citizens' groups,  
3 and other groups with similar interests.

4 (B) Five representatives of the commercial  
5 air tour industry and organizations with similar  
6 interests.

7 (C) Five individuals from the private sec-  
8 tor who—

9 (i) have an interest in the effects on  
10 the units of the National Park System of  
11 commercial air tour flights in the airspace  
12 over such units;

13 (ii) are not affiliated with the organi-  
14 zations or groups referred to in subpara-  
15 graph (A) or the industry or organizations  
16 referred to in subparagraph (B); and

17 (iii) have no substantial financial in-  
18 terest in the management of the airspace  
19 over units of the National Park System.

20 (D) Five representatives of departments or  
21 agencies of the Federal Government (other than  
22 individuals associated with the Department of  
23 the Interior and the Department of Transpor-  
24 tation), with the consent of the head of the de-  
25 partment or agency concerned, who have regu-

1 latory responsibility over land management  
2 matters, airspace management matters, or both.

3 (2) EX OFFICIO MEMBERS.—The Director, or  
4 the designee of the Director, and the Administrator,  
5 or the designee of the Administrator, shall be ex  
6 officio members of the Council.

7 (3) APPOINTMENT DATE.—Members of the  
8 Council shall be appointed under this subsection not  
9 later than 90 days after the date of the enactment  
10 of this Act.

11 (4) SELECTION OF CHAIR.—The Council shall  
12 elect a Chairperson from among the voting members  
13 of the Council.

14 (5) MEETINGS.—The Council shall first meet  
15 not later than 180 days after the date of the enact-  
16 ment of this Act and shall meet thereafter at the call  
17 of a majority of the members of the Council.

18 (c) DUTIES.—The Council shall have the following  
19 duties:

20 (1) To determine the effects on the environment  
21 of units of the National Park System of commercial  
22 air tour flights in the airspace over such units.

23 (2) To determine the economic effects of re-  
24 strictions or prohibitions on such flights.

1           (3) To solicit and receive comments from inter-  
2       ested individuals and groups on such flights.

3           (4) To develop recommendations for means of  
4       reducing the adverse effects of such flights on such  
5       units.

6           (5) To explore financial and other incentives  
7       which could encourage manufacturers to advance the  
8       state-of-the-art in quiet aircraft and rotorcraft tech-  
9       nology and encourage commercial air tour operators  
10      to implement such technology in flights over park  
11      units.

12          (6) To provide comments and recommendations  
13      to the Director and the Administrator under sections  
14      6 and 7.

15          (7) To provide advice or recommendations to  
16      the Director, the Administrator, and other appro-  
17      priate individuals and groups on matters relating to  
18      such flights.

19          (8) To carry out such other activities as the Di-  
20      rector and the Administrator jointly consider appro-  
21      priate.

22      (d) ADMINISTRATION.—

23          (1) COMPENSATION OF NON-FEDERAL MEM-  
24      BERS.—Members of the Council who are not officers  
25      or employees of the Federal Government shall serve

1 without compensation for their work on the Council,  
2 but shall be allowed travel expenses, including per  
3 diem in lieu of subsistence, in the same manner as  
4 persons employed intermittently in the Government  
5 service under section 5703(b) of title 5, United  
6 States Code, to the extent funds are available there-  
7 for.

8 (2) COMPENSATION OF FEDERAL MEMBERS.—  
9 Members of the Council who are officers or employ-  
10 ees of the Federal Government shall serve without  
11 compensation for their work on the Council other  
12 than that compensation received in their regular  
13 public employment, but shall be allowed travel ex-  
14 penses, including per diem in lieu of subsistence, as  
15 authorized by law, to the extent funds are available  
16 therefor.

17 (3) ADMINISTRATIVE SUPPORT.—The Director  
18 and the Administrator shall, to the extent permitted  
19 by law, provide the Council with such administrative  
20 services, funds, facilities, staff and other support  
21 services as may be necessary for the performance of  
22 its functions.

23 (e) REPORTS.—The Council shall annually submit to  
24 Congress, the Administrator, and the Director a report  
25 that—

1 (1) describes the activities of the Council under  
2 this section during the preceding year; and

3 (2) sets forth the findings and recommenda-  
4 tions of the Council on matters related to the miti-  
5 gation of the effects on the units of the National  
6 Park System of flights of commercial air tour opera-  
7 tors over such units.

8 (f) AUTHORIZATION OF APPROPRIATIONS.—There  
9 are authorized to be appropriated such sums as may be  
10 necessary to carry out the provisions of this section.

11 **SEC. 11. DEFINITIONS.**

12 In this Act:

13 (1) The term “Administrator” means the Ad-  
14 ministrator of the Federal Aviation Administration.

15 (2) The term “air tour aircraft” means an air-  
16 craft (including a fixed-wing aircraft or a rotorcraft)  
17 that makes air tour flights.

18 (3) The term “air tour flight” means a pas-  
19 senger flight conducted by aircraft (including by  
20 fixed-wing aircraft or by rotorcraft) for the purpose  
21 of permitting a passenger to the flight to view an  
22 area over which the flight occurs.

23 (4) Except as defined by the Federal Aviation  
24 Administration under section 4, the term “commer-  
25 cial air tour operator” means a company, corpora-



1       tion, partnership, individual, or other entity that  
2       provides air tour flights for hire to the public.

3           (5) The term “Director” means the Director of  
4       the National Park Service.

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